

Message Text

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ACTION DLOS-06

INFO OCT-01 IO-13 ISO-00 AF-08 ARA-10 EA-09 EUR-12 NEA-10

OIC-02 FEA-01 ACDA-10 AGR-10 AID-05 CEA-01 CEQ-01

CG-00 CIAE-00 CIEP-02 COME-00 DODE-00 DOTE-00 EB-07

EPA-04 ERDA-07 FMC-02 TRSE-00 H-02 INR-07 INT-05

JUSE-00 L-03 NSAE-00 NSC-05 NSF-02 OES-06 OMB-01

PA-02 PM-04 PRS-01 SP-02 SS-15 USIA-15 SAL-01 /192 W
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FROM LOS DEL

E.O. 11652: N/A

TAGS: PLOS

SUBJECT: LOS: NEGOTIATING GROUP 2 OF COMMITTEE II--RIGHT
OF ACCESS OF LANDLOCKED STATES TO AND FROM THE SEA
AND FREEDOM OF TRANSIT -AUGUST 13

1. DEBATE CONTINUED IN CONCILIATORY MANNER WITH INDICATIONS
THAT AGREEMENT COULD BE REACHED ON RELEVANT ARTICLES ON
ACCESS TO SEA, ETC. IN RECOGNITION OF THIS PROGRESS, THE
CHAIRMAN INVITED 20 TO 24 STATES TO MEET INFORMALLY ON
TUESDAY MORNING, AUGUST 17, IN A PRIVATE SESSION TO PREPARE
THE NECESSARY AMENDMENTS TO GIVE FORM TO THE EMERGING
AGREEMENT. IT IS NOT CLEAR AT THIS TIME WHICH STATES
WILL FORM THAT SMALL NEGOTIATING GROUP. IT
APPEARS THAT THE COMPROMISE ARTICLES WILL BE VERY MUCH
SIMILAR TO THE PRESENT RSNT WITH CERTAIN CHANGES REPRESENTING
REASSURANCE TO THE LANDLOCKED STATES.

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2. AFGHANISTAN CONTINUED TO ACTIVELY PARTICIPATE AND OFFERED

NUMEROUS AMENDMENTS ALONG THE LINES OF PREVIOUS SUBMISSIONS, MANY OF WHICH ARE UNLIKELY TO BE ACCEPTED. NEPAL SUGGESTED CERTAIN AMENDMENTS WHICH WERE QUITE DETAILED AND WHICH ARE PROBABLY MORE APPROPRIATE FOR INCLUSION IN THE SUBSEQUENT BILATERAL AGREEMENTS BETWEEN TRANSIT AND LANDLOCKED STATES. THEY PROPOSED AMENDMENT TO ARTICLE 113, PARA. 2 AS FOLLOWS: "LANDLOCKED STATES MAY, IN AGREEMENT WITH THE TRANSIT STATES, APPOINT CUSTOMS AND OTHER APPROPRIATE OFFICIALS TO POSTS WITHIN THE TRANSIT STATES TO PERFORM FUNCTIONS OF BERTHING OF SHIPS WITH TRANSIT CARGO, LOADING AND UNLOADING OF THE TRANSIT CARGO, STORAGE, TRANSHIPMENT, ETC." THEY PROPOSED A NEW PARA. 3 TO READ AS FOLLOWS: "LANDLOCKED STATES AND TRANSIT STATES, SHALL AGREE ON AND USE SIMPLIFIED DOCUMENTATION AND EXPEDITIOUS METHODS IN REGARD TO CUSTOMS, TRANSPORT AND OTHER ADMINISTRATIVE PROCEDURES RELATING TO TRAFFIC IN TRANSIT FOR THE WHOLE TRANSIT JOURNEY IN THEIR TERRITORY." THESE DETAILED ARTICLES WERE NOT ACCEPTABLE TO THE COASTAL STATES INCLUDING BRAZIL AND PERU.

3. PERU INDICATED AGREEMENT TO CERTAIN AMENDMENTS OF THE LANDLOCKED STATES INCLUDING THE INSERTION OF THE WORD "FREE" BEFORE ACCESS TO THE SEA IN ARTICLE 110 AND IN OTHER PLACES. THAT AMENDMENT NOW SEEMS TO BE ACCEPTED BY SEVERAL COASTAL STATES. IN PARA. 3 OF ARTICLE 110, THEY AND OTHER COASTAL STATES INDICATED THAT THE WORD "INDISPENSIBLE" BEFORE "MEASURES" WAS ALSO ACCEPTABLE. HOWEVER, PERU AND CERTAIN OTHER STATES INDICATED THAT IN ARTICLE 116, THERE COULD BE NO PREFERENTIAL RIGHTS FOR THE SHIPS OF LANDLOCKED STATES. THEY CITED LEGAL AS WELL AS ADMINISTRATIVE DIFFICULTIES WITH THAT APPROACH.

4. PAKISTAN FAVORED THE DELETION OF ARTICLE 109, PARA. 1(B) AND PARA. 2. THEY WOULD AMEND ARTICLE 110 AS FOLLOWS: "LANDLOCKED STATES SHOULD HAVE FREE ACCESS TO AND FROM THE SEA SUBJECT TO THE FOLLOWING PROVISIONS FOR THE PURPOSE OF EXERCISING THEIR RIGHTS RELATING TO THE FREEDOMS OF THE HIGH SEAS AND THE PRINCIPLE OF THE COMMON HERITAGE OF MANKIND. TO THIS END, LANDLOCKED STATES SHOULD BE ACCORDED BY NEIGHBORING TRANSIT STATES, ON

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THE BASIS OF RECIPROCITY, FREEDOM OF TRANSIT THROUGH THEIR TERRITORIES." THEY WOULD AMEND ARTICLE 111 AS FOLLOWS: "PROVISIONS OF THE PRESENT CONVENTION, AS WELL AS SPECIAL AGREEMENTS WHICH REGULATE FREE ACCESS OF LANDLOCKED STATES TO AND FROM THE SEA ARE EXCLUDED FROM THE APPLICATION OF THE MOST FAVORED NATION CLAUSE."

5. THE USSR INTERVENED TO STATE THAT THE RIGHTS OF LAND-

LOCKED STATES SHOULD BE RECOGNIZED IRRESPECTIVE OF
RECIPROCITY.

6. BRAZIL IN CONCILATORY TONE GENERALLY OPPOSED THE
DETAILED AMENDMENTS OF THE LANDLOCKED STATES.

7. AUSTRIA AND CZECHOSLOVAKIA AGREED THAT COMPROMISE WAS
CLOSE AT HAND.

8. PARAGUAY SUGGESTED A SERIES OF AMENDMENTS. ADD
AT THE END OF ARTICLE 110, PARA. 2: "NONETHELESS, THE
LACK OF AN AGREEMENT OF THIS NATURE CANNOT BE INVOKED BY
A TRANSIT STATE FOR THE PURPOSES OF DENYING A LANDLOCKED
STATE FREEDOM OF TRANSIT THROUGH THE TERRITORY OF THE
TRANSIT STATE." IN ARTICLE 114, THEY WOULD DELETE "FREEDOM
OF TRANSIT" AND INSERT "FREE AND UNIPEDED TRANSIT."
ARTICLE 115, PARA. 1 WOULD READ: "WITHOUT PREJUDICE
TO THE PROVISIONS OF ARTICLE 110, PARA . 3...." ARTICLE 116
"SHIPS WHICH FLY THE FLAG OF LANDLOCKED STATES SHALL ENJOY
PREFERENTIAL TREATMENT WITH RESPECT TO SHIPS OF THIRD
STATES IN PORTS OF TRANSIT STATES."

9. SINGAPORE SUGGESTED AN AMENDMENT TO ARTICLE 116 WHICH
WOULD TIE PREFERENTIAL TREATMENT TO "THE MOST FAVORED
FOREITH SHIPS."
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